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REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-FIFTH SESSION

Report of the Sixth Committee

Rapporteur: Mr. Oleksandr F. MOTSYK (Ukraine)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 24 September 1993, the General Assembly on the recommendation of the General Committee, decided to include in its agenda the item entitled "Report of the International Law Commission on the work of its forty-fifth session" and to allocate it to the Sixth Committee.

2. In connection with the item, the Sixth Committee had before it the following documents:

(a) Report of the International Law Commission on the work of its forty-fifth session; 1/

(b) Note by the Secretary-General containing the text of the draft articles adopted by the International Law Commission on topics considered at its forty-fifth session (A/48/303);

(c) Letter dated 19 May 1993 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General (A/48/170-S/25801).

(d) Letter dated 28 October 1993 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General (A/48/564).

1/ Official Records of the General Assembly, Forty-eighth session, Supplement No. 10 (A/48/10).

3. The Sixth Committee considered the item at its 17th to 28th meetings, from 25 to 29 October and from 1 to 5 November, and at its 37th and 38th meetings, on 24 and 29 November 1993. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/48/SR.17-28, 37 and 38).

4. At the 17th meeting, on 25 October, Mr. Julio Barboza, Chairman of the International Law Commission at its forty-fifth session, introduced the Commission's report on the work of that session (see A/C.6/48/SR.17). At the 28th meeting, on 5 November, the Chairman of the Commission made a closing statement.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/48/L.11

5. At the 37th meeting, on 24 November, the representative of Uruguay introduced a draft resolution entitled "Report of the International Law Commission on the work of its forty-fifth session" (A/C.6/48/L.11), sponsored by Argentina, Australia, Austria, Brazil, Bulgaria, Canada, Costa Rica, the Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Hungary, Indonesia, Ireland, Italy, Japan, New Zealand, Poland, Portugal, Romania, the Russian Federation, Rwanda, Senegal, Slovakia, Thailand, Trinidad and Tobago, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela, later joined by Belarus, Chile, Germany, Morocco, the Netherlands, Norway, the Republic of Moldova and Sweden.

6. At its 38th meeting, on 29 November, the Committee adopted draft resolution A/C.6/48/L.11 without a vote (see para. 8).

7. The representative of Cuba made a statement in explanation of position after the adoption of the draft resolution (see A/C.6/48/SR.38).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly the adoption of the following resolution:

Report of the International Law Commission on the work of its forty-fifth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its forty-fifth session, 2/

2/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 10 (A/48/10).

Emphasizing the need for the progressive development of international law and its codification in order to make it a more effective means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations 3/ and to give increased importance to its role in relations among States,

Recognizing the importance of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Recognizing the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Expressing its appreciation for the progress achieved by the International Law Commission in its elaboration of a draft statute for an international criminal court, and noting the constructive debate in the Sixth Committee pertaining to this question,

Considering that experience has demonstrated the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention on each of the main topics dealt with in the report, and that this process is facilitated when the Commission indicates specific issues on which expressions of views by Governments are of particular interest for the continuation of its work,

1. Takes note of the report of the International Law Commission on the work of its forty-fifth session; 2/

2. Expresses its appreciation to the International Law Commission for the work accomplished at that session;

3. Recommends that, taking into account the comments of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme;

3/ Resolution 2625 (XXV), annex.

4. Takes note with appreciation of chapter II of the report of the International Law Commission, entitled "Draft Code of Crimes against the Peace and Security of Mankind", which was devoted to the question of a draft statute for an international criminal court;

5. Invites States to submit to the Secretary-General by 15 February 1994, as requested by the International Law Commission, written comments on the draft articles proposed by the Working Group on a draft statute for an international criminal court;

6. Requests the International Law Commission to continue its work as a matter of priority on this question with a view to elaborating a draft statute if possible at its forty-sixth session in 1994, taking into account the views expressed during the debate in the Sixth Committee as well as any written comments received from States;

7. Endorses the decision of the International Law Commission to include in its agenda the topics "The law and practice relating to reservations to treaties" and "State succession and its impact on the nationality of natural and legal persons", 4/ on the understanding that the final form to be given to the work on these topics shall be decided after a preliminary study is presented to the General Assembly;

8. Notes the intentions of the International Law Commission for the programme of work for the remainder of the current term of office of its members, 5/ and in this connection requests the Commission to resume at its forty-sixth session the consideration of the draft Code of Crimes against the Peace and Security of Mankind and welcomes the Commission's decision to endeavour to complete in 1994 the second reading of the draft articles on the law of the non-navigational uses of international watercourses;

9. Expresses its appreciation for the efforts of the International Law Commission to improve its procedures and methods of work;

10. Requests the International Law Commission:

(a) To consider thoroughly:

(i) The planning of its activities and programme for the term of office of its members, bearing in mind the desirability of achieving as much progress as possible in the preparation of draft articles on specific topics;

4/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 10 (A/48/10), para. 440.

5/ Ibid., para. 424.

(ii) Its methods of work in all their aspects, bearing in mind that the staggering of the consideration of some topics might contribute, inter alia, to a more effective consideration of its report in the Sixth Committee;

(b) To continue to pay special attention to indicating in its annual report, for each topic, those specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest for the continuation of its work;

11. Takes note of the comments of the International Law Commission on the question of the duration of its session, as presented in its report, 6/ and expresses the view that the requirements of the work for the progressive development of international law and its codification and the magnitude and complexity of the subjects on the agenda of the Commission make it desirable that the usual duration of its sessions be maintained;

12. Reaffirms its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the summary records and other documentation of the International Law Commission;

13. Once again expresses the wish that seminars will continue to be held in conjunction with the sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars, appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars, and expresses the hope that every effort will continue to be made by the Secretary-General, within existing resources, to provide the seminars with adequate services, including interpretation, as required;

14. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the forty-eighth session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate;

15. Recommends the continuation of efforts to improve the ways in which the report of the International Law Commission is considered in the Sixth Committee, with a view to providing effective guidance for the Commission in its work;

16. Also recommends that the debate on the report of the International Law Commission at the forty-ninth session of the General Assembly commence on 24 October 1994.

6/ Ibid., para. 452.